



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**July 14, 2004**

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**SUBJECT:**           **2004-0484:** Application for a 3,609 square foot site located at **795 West McKinley** in an R-2 (Low-Medium Density Residential) Zoning District (APN: 165-12-014):

Motion               Variance from SMC (Sunnyvale Municipal Code) section 19.26.100 to allow an air conditioner between the building and South Pastoria Avenue.

**REPORT IN BRIEF**

**Existing Site**           Single Family Home

**Conditions**

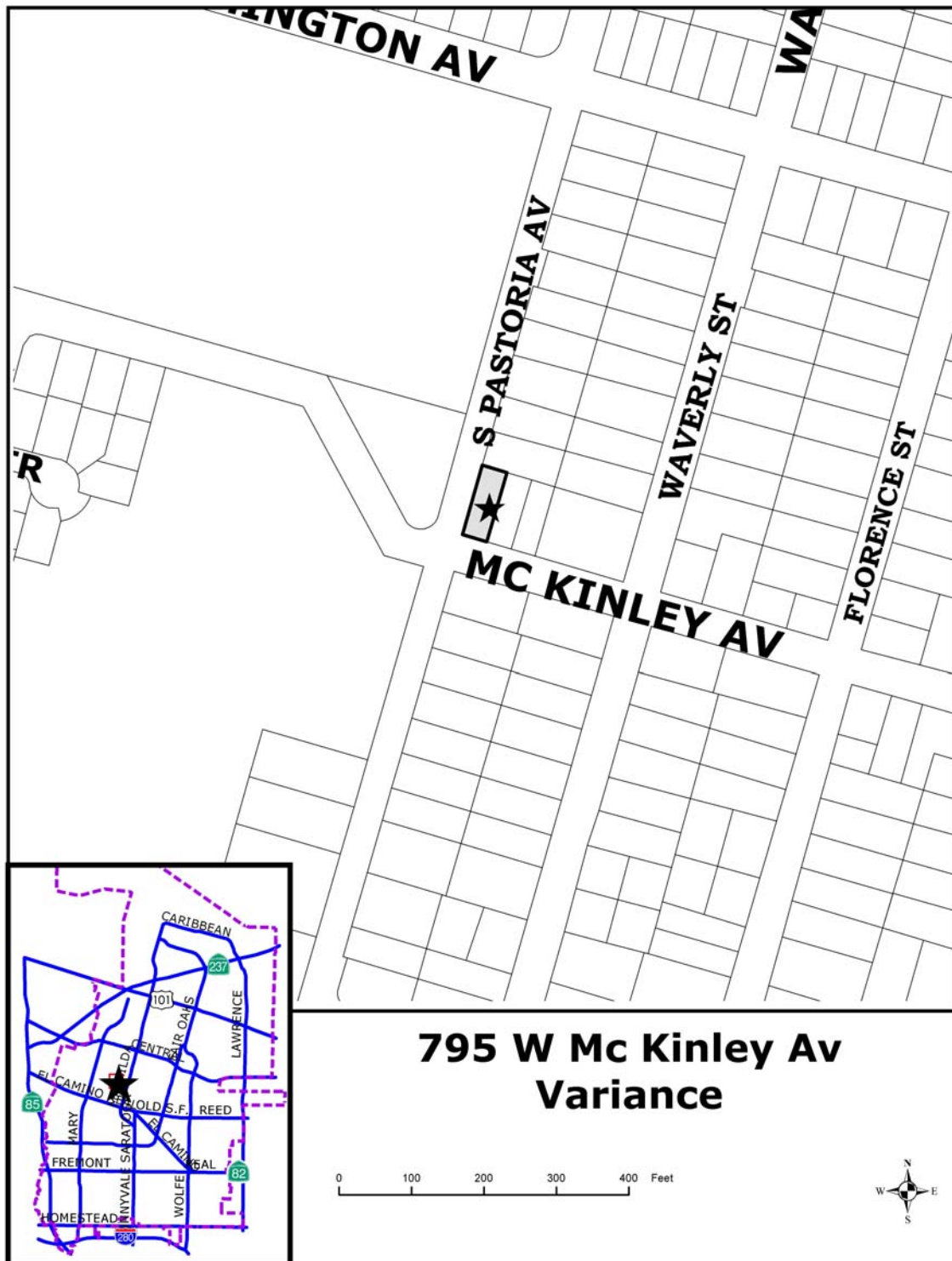
**Surrounding Land Uses**

North	Single Family Home
South	Single Family Home
East	Single Family Home
West	Parking Area for Washington Park (Across South Pastoria Avenue)

**Issues**               Location of A/C Unit, Setbacks

**Environmental Status**       A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation**       Approve with Conditions



**PROJECT DATA TABLE**

	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>	<b><u>REQUIRED/ PERMITTED</u></b>
<b>General Plan</b>	Residential Low Medium Density	Same	---
<b>Zoning District</b>	R-2	Same	---
★ <b>Lot Size (s.f.)</b>	3,609	Same	8,000 min.
★ <b>Gross Floor Area (s.f.)</b>	1,552	Same	No max.
★ <b>Lot Coverage (%)</b>	42%	Same	40% max.
<b>Floor Area Ratio (FAR)</b>	42%	Same	No max.
<b>No. of Buildings On-Site</b>	2	2	---
<b>Setbacks (facing prop.)</b>			
★ <b>• Front</b>	9' to porch	Same	20' min.
★ <b>• Left Side (S. Pastoria Avenue)</b>	7'5"	5'9" to A/C unit	9' min.
★ <b>• Right Side</b>	3'10"	Same	6' min.
★ <b>• Rear</b>	3' to detached garage	Same	20' min. (10' allowable with 25% encroachment )

★ - Shaded area denotes non-conformance to current Sunnyvale Municipal Code Zoning standards

**ANALYSIS****Background**

**Previous Actions on the Site:** The following table summarizes previous planning applications related to the subject site.

<b>File Number</b>	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
1992-0377	Variance to allow a 6' fence within the corner vision triangle	Administrative/ Approved	8/12/92

The approval noted in the above chart references the current fence that is located along South Pastoria Avenue. The proposed air conditioner unit would be located behind this fence.

### **Description of Proposed Project**

The proposed project is for a Variance to allow an air conditioner unit within the required reducible front yard. Sunnyvale Municipal Code Section 19.48.100 states that *“Mechanical equipment, such as but not limited to heating or air conditioner units, shall not be located between the face of building and the street, and shall be screened from view. Any mechanical equipment which is higher than eighteen inches must meet the side and rear yard setbacks of the zoning district of the property where such equipment is located.”*

The proposed unit would be located 5’ 9” away from the property line adjacent to South Pastoria Avenue. Due to the location within the required reducible yard (9 foot), approval is subject to review of a Variance by Administrative Hearing.

### **Environmental Review**

A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 11 Categorical Exemptions include accessory structures.

### **Variance**

**Site Layout:** The proposed site is located on a corner lot at W. McKinley Avenue and S. Pastoria Avenue. The lot is considered undersized at 3,610 square feet as the minimum standard is 8,000 square feet in the R-2 Zoning District. Although many properties within the nearby vicinity are considered substandard in terms of lot area, the subject lot is one of three properties that are below 4,000 square feet. Many of the neighboring R-2 Zoned Properties range from 5,000 square feet to 6,000 square feet.

The current reducible front yard setback of the house is considered legal non-conforming as it was built with only a 7’5” setback (9’ is required). The proposed unit would be located 5’9” away from the property line and behind the existing fence (See Attachment #3, Page 2 of 2). An existing detached two-car garage limits the useable area within the rear yard. This area is utilized by a patio and lawn area. Approximately 14’9” separate the garage and home, however; trees and a flower bed take up over 2’ of this area.

**Parking/Circulation:** The site meets parking standards with two covered and two uncovered parking spaces with a detached garage located in the rear yard. The current location of the garage is considered legal non-conforming in terms of setbacks to the north and east property lines.

### **Compliance with Development Standards**

The proposed location of the air conditioner is within the required nine foot setback for the reducible front yard. An approved Variance to allow a six foot fence within the required 40 foot corner vision triangle was approved in 1992. The home and garage were legally built but do not meet certain current setback standards as noted in the "Data Table" on page 3 of this report. Additionally, the existing home and detached garage is over the current allowable lot coverage of 40%. The project does not involve additional floor area; however, any proposed addition in the future would be subject to current Zoning Standards.

### **Expected Impact on the Surroundings**

The location of the air conditioner would have no impact to surrounding properties as the unit is adjacent to a public street. As noted above, an existing fence obstructs view of the unit from the adjoining South Pastoria Avenue and West McKinley Avenue. During operation of the unit, the unit may generate an audible sound to pedestrians along sidewalk of South Pastoria Avenue. Per Condition of Approval #3, the unit shall not exceed noise requirements per Sunnyvale Municipal Code 19.42.030 (75 dBA at any point on the property line).

Staff supports the Variance application based on the characteristics of the site. The location of the air conditioning unit is considered the best location position on the property due to the current layout of the buildings on the site. If the unit was location within the rear yard area between the main structure and the garage, staff believes that this would considerably limit the value of this already limited useable rear yard area. The location is adequately shielded from public view by a current fence. Furthermore, staff believes, the proposed location would have the least audible impact to neighboring properties.

### **Findings, General Plan Goals and Conditions of Approval**

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Staff was able to make the required Findings based on the justifications for the Variance.

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

**Fiscal Impact**

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No fiscal impacts other than normal fees and taxes are expected.

**Public Contact**

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<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>• Published in the <i>Sun</i> newspaper</li><li>• Posted on the site</li><li>• Mailed to 4 adjacent property owners of the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Website</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• City of Sunnyvale's Website</li><li>• Recorded for SunDial</li></ul>

**Alternatives**

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1. Approve the Variance with the attached conditions.
2. Approve the Variance with modified conditions.
3. Deny the Variance.

**Recommendation**

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Recommend Alternative 1.

Prepared by:

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Ryan K. Kuchenig  
Project Planner

Reviewed by:

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Diana O'Dell  
Senior Planner

Attachments:

1. Recommended Findings
2. Recommended Conditions of Approval
3. Site and Architectural Plans
4. Justifications from the Applicant
5. Photos of the subject site provided by the applicant
6. Letter from adjacent neighbor

**Recommended Findings - Variance**

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1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. The subject site is considered a substandard lot in terms of lot size and lot width. There are limited locations on the site due the position of the main structure on the lot and existing detached garage.
2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. The proposed location for the air conditioning unit is appropriately located in a side yard (reducible front yard) area that is not commonly used by the resident. Alternative locations for the unit are limited due to the subject site's corner lot configuration and limited rear yard area. The location will have the least impact to neighboring properties with respect to visibility and noise. Additionally, an existing fence will shield the unit from view from the public street.
3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. The subject site has considerably less location capabilities than nearby properties in the area due the size of the lot and position of the existing home.



**Recommended Conditions of Approval - Variance**

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In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this permit:

1. The two-year expiration date of the Variance shall be measured from the date of the approval by the final review authority at a public hearing if the approval is not exercised.
2. The applicant shall obtain a building permit.
3. The air conditioning unit shall comply with the noise requirements set forth in Section 19.42.030 of Sunnyvale Municipal Code.